

EXHIBIT B

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF MASSACHUSETTS

3 - - - - - X

4 UNITED STATES OF AMERICA, et :

5 al., :

6 Plaintiffs, : Case No.

7 v. : 1:23-cv-10511-WGY

8 JETBLUE AIRWAYS CORPORATION :

9 AND SPIRIT AIRLINES, INC., X

10 Defendants.

11 - - - - -

12 VIDEOTAPED DEPOSITION OF

13 RICHARD SCHEFF

14

15 HIGHLY CONFIDENTIAL PURSUANT TO PROTECTIVE ORDER

16 Washington, D.C.

17 Wednesday, September 6, 2023

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1 Q. So based on your experience in network
2 planning and in the airline industry, do you have an
3 opinion as to whether it would be more difficult to
4 network plan a point to point network versus a hub
5 and spoke network?

6 MR. MITCHELL: Objection to the form.

7 THE WITNESS: For network planning, I
8 think that both models have their complexities and
9 intricacies, so I can't -- I can't compare which
10 would be more difficult.

11 BY MR. DeRITA:

12 Q. Generally speaking, is there any impact on
13 utilization rates -- let me scratch that, and start
14 over.

15 Do utilization rates of point to point
16 networks tend to be higher or lower than hub and
17 spoke networks?

18 MR. MITCHELL: Objection to the form.

19 THE WITNESS: I haven't compared
20 utilization rates across various airlines, so it
21 depends on a number of factors. I don't -- I don't
22 want to comment on different airlines' overall

1 utilization rates.

2 BY MR. DeRITA:

3 Q. Would you expect that a point to point
4 network would have a higher fleet utilization rate
5 than hub and spoke?

6 MR. MITCHELL: Objection to the form.

7 THE WITNESS: I think it would depend on a
8 number of factors, including stage length, and
9 including airlines can choose how tightly to
10 schedule. So it's -- I wouldn't want -- would not
11 want to make a blanket statement that a certain type
12 of airline would have more utilization or less.

13 BY MR. DeRITA:

14 Q. How would stage length impact utilization
15 rates?

16 A. Well, the utilization rates are basically
17 how much the plane is in the air. When a plane is on
18 the ground, then it's not part of utilization. So if
19 you have a long flight, let's say a five-hour flight,
20 you have five hours of utilization time, whereas if
21 you have two -- over that same five hours, you have
22 two two-hour flights, with a one-hour turn, you only

1 So what markets were served, what the distances are.

2 I think it would be a case by case situation, so I
3 hesitate to just give a blanket cause and effect.

4 BY MR. DeRITA:

5 Q. Do you know if JetBlue has any plans to
6 adjust Spirit's current schedules to increase
7 connectivity following the merger?

8 A. I'm not aware of -- beyond what they show
9 in 2027, but I'm not aware of what JetBlue's plans
10 are with respect to any re-timings or changes for
11 Spirit.

12 Q. Did you consider the plans for 2027 that
13 you were just referring to in your analysis of
14 utilization?

15 A. I did not in -- with respect to
16 utilization directly.

17 Q. You said directly. So how about other
18 than directly?

19 A. Well, the 2027 plans indicated, for
20 example, focus cities and areas where JetBlue
21 intended to increase service. And those -- those
22 factors give an indication of particularly some of

1 with that.

2 Q. What's your opinion on whether that
3 measure would illuminate utilization changes of a
4 JetBlue-Spirit merger?

5 MR. MITCHELL: Objection to the form.

6 THE WITNESS: You know, I didn't quantify
7 this, but I do think that combining the airlines
8 potentially could allow JetBlue's lower plane
9 availability rate to come closer to Spirit's, and
10 potentially free up an airplane or some number of
11 airplanes. Again, I didn't quantify, but it's -- I
12 think it's a possibly.

13 BY MR. DeRITA:

14 Q. When you say come closer to Spirit's --
15 JetBlue's plane availability rate is lower than
16 Spirit's; is that right?

17 MR. MITCHELL: Objection to the form.

18 THE WITNESS: The historical periods that
19 I've looked at in the active schedule versus the
20 fleet, it is true that JetBlue has a lower plane
21 availability rate in both 2019 and 2023, that is
22 correct.

1 seat utilization.

2 Q. So also in her report, Dr. Chipty states,
3 Spirit may generate many more flown seats than
4 JetBlue by running many short haul flights with more
5 idle time. Do you agree with that statement?

6 MR. MITCHELL: Objection to the form.

7 THE WITNESS: No, I don't see any context.
8 I haven't assessed how much idle time they have.
9 Idle time is very specific. If you're at an
10 airport -- for example, if you have an hour of idle
11 time, you can't add a flight, you can't go anywhere
12 and come back. So I think there's no context for
13 whether Spirit has time that could be converted into
14 service or not. So I don't have a view that
15 that's -- that that would happen.

16 BY MR. DeRITA:

17 Q. So you haven't assessed any combined
18 network plans that would say whether Spirit would be
19 able to fly more or less flights post merger, one way
20 or the other?

21 MR. MITCHELL: Objection to the form.

22 THE WITNESS: Well, again, if we go back

1 to the days and the seasons where Spirit has reduced
2 and doesn't fly, for example, a lot of
3 Tuesday-Wednesday service, that is time that can
4 potentially be converted to additional flights,
5 whether flying a three-and-a-half hour flight instead
6 of a four-and-a-half hour flight allows more flights
7 is very context dependent. And I don't have a view
8 of whether that would occur.

9 BY MR. DeRITA:

10 Q. We had already talked about this earlier
11 today, but Exhibit 18 of your report, that assesses
12 utilization changes and converts them into a measure
13 of seat departures; is that right?

14 MR. MITCHELL: Objection to the form.

15 THE WITNESS: The utilization measure in
16 figure 18 is seat departure.

17 BY MR. DeRITA:

18 Q. But you also use line utilization at other
19 points in your report, correct?

20 MR. MITCHELL: Objection to the form.

21 THE WITNESS: Yes, the report has used
22 line utilization as well as utilization defined by

1 they may choose to do in the future.

2 BY MR. DeRITA:

3 Q. Did you do any analysis of whether
4 increasing Spirit utilization in off-peak months
5 would be profitable for the combined airline?

6 MR. MITCHELL: Objection to the form.

7 THE WITNESS: I did not assess the
8 profitability of increased flying, no.

9 BY MR. DeRITA:

10 Q. And you didn't express an opinion as to
11 whether increased flying in off-peak months would be
12 profitable for the combined airline in your report,
13 correct?

14 A. I did not express an opinion on that. I
15 do think with JetBlue's heavier focus on business
16 travelers, that they may potentially be able to
17 operate profitably in periods of time where it's not
18 as lucrative for Spirit. But I did not offer an
19 opinion on specifics.

20 Q. Can you help me kind of unpack that a
21 little bit. How would JetBlue's heavier focus on
22 business travelers increase the utilization and the

1 profitability of the Spirit fleet?

2 MR. MITCHELL: Objection to the form.

3 THE WITNESS: You're talking in a post
4 merger situation?

5 BY MR. DeRITA:

6 Q. Yes.

7 A. Well, I mean, I'll give you an example.
8 Spirit has -- they serve a number of markets that do
9 -- or routes, city pairs, that have a significant
10 business component. And it's quite possible that an
11 airline who has that as a bigger piece of their
12 target audience would operate on business days, where
13 an airline who is relying very heavily on leisure
14 travel would not find it profitable to operate on
15 those days.

16 Q. Have you done any analysis as to which
17 routes Spirit's off-peak utilization might increase
18 post merger?

19 A. I have looked -- I haven't done analysis
20 on specific profitability, but I have looked at
21 schedule patterns. So for example, in Austin, which
22 is a fairly large business market with a lot of high

1 tech, in 2019, Spirit operated ten flights a day,
2 Wednesday through Monday, and only four on Tuesday
3 and Wednesday. Flights to Chicago and Los Angeles,
4 Detroit. I don't remember which ones were cut back.

5 I looked at a number of Atlanta markets,
6 for example, I live there, and there's a lot of
7 markets like Atlanta-Baltimore, Atlanta-Cleveland,
8 whether there's reduction on Tuesday and Wednesday.
9 Those are markets I consider important business
10 markets. And so on an observational basis, without
11 quantifying, I did look at whether it seemed
12 reasonable that JetBlue would operate a number of
13 those markets.

14 Q. When you say would operate, are you
15 talking about markets that Spirit operates today, and
16 whether they would operate those markets as a
17 combined airline?

18 A. Right. So, for example, let's go to
19 Atlanta-Baltimore, with Spirit operating 12 flights a
20 week. So only one on Tuesday and Wednesday, and two
21 the other days. I would think it's very possible
22 that JetBlue would choose to operate 14 a week, and

1 operate Tuesday, Wednesday, both flights. So those
2 types of pattern are what would be consistent with
3 how JetBlue operates.

4 Q. Is it fair to say that Spirit reduces its
5 flying in off-peak months because there's less
6 consumer demands for the routes that Spirit flies in
7 those months?

8 MR. MITCHELL: Objection to the form.

9 THE WITNESS: Well, I mean, I don't have
10 insight into exactly the demand. I think Spirit
11 reduces their capacity in off-peak -- or off-peak
12 days when they view that it would not be profitable
13 to operate. So generally, lower demand does lead to
14 less profit. But that's an analysis that Spirit
15 makes. I don't have their profits by day.

16 BY MR. DeRITA:

17 Q. So if that's your understanding as to why
18 Spirit changes its flying patterns, why would the
19 Spirit fleet increase utilization, as you suggest in
20 your report, if it's facing lower demand, which as
21 you said, does lead to less profit?

22 MR. MITCHELL: Objection to the form.

1 MR. MITCHELL: Objection to the form.

2 THE WITNESS: Well, I mean, in many years
3 of building schedules, lots of business passengers do
4 originate their trips in the morning on weekdays. So
5 that's basically an understood concept in airline
6 scheduling and planning.

7 BY MR. DeRITA:

8 Q. If passengers are interested in this
9 service, and there's demand for it, then why isn't
10 there some airline flying it now?

11 MR. MITCHELL: Objection to the form.

12 THE WITNESS: Which route are you
13 referring to?

14 BY MR. DeRITA:

15 Q. Let's go with your example, the Cleveland
16 route?

17 A. Well, Delta flies it, I think, six, seven
18 times a day. So if you want to go currently in the
19 morning from Atlanta to Cleveland, your choice would
20 largely be Delta or Delta, unless it's Wednesday
21 through Friday, you could choose Spirit.

22 Q. So is there any reason Spirit couldn't

1 just add Tuesday and Wednesday mornings on Atlanta to
2 Cleveland in a vacuum without the merger?

3 MR. MITCHELL: Objection to the form.

4 THE WITNESS: I think Spirit has evaluated
5 and decided not to fly it. I don't have the full
6 picture of what went into that decision. They could
7 certainly change. They add frequencies and drop
8 frequencies on an ongoing basis. So I'm not aware of
9 anything that would prevent them from adding it if
10 they felt it would be profitable.

11 BY MR. DeRITA:

12 Q. Is there any business condition or -- I
13 guess is there any kind of condition that would
14 change after the merger that would change the
15 evaluation as to whether not to fly that route?

16 MR. MITCHELL: Objection to the form.

17 THE WITNESS: So are you referring to
18 after the merger, and this is now a JetBlue market
19 from Atlanta to Cleveland?

20 BY MR. DeRITA:

21 Q. Yeah, why would the merger change the
22 facts on the ground or the conditions on the ground

1 to incentivize an airline to fly, if things exist as
2 they are today?

3 MR. MITCHELL: Objection to the form.

4 THE WITNESS: Well, the merger -- the
5 airlines typically do have different target customer
6 bases. And to the extent that JetBlue has more of a
7 focus on competing with a Delta or with an American
8 for a business passenger, then that can affect
9 whether you would want to add those flights.

10 BY MR. DeRITA:

11 Q. Have you evaluated whether JetBlue's
12 combined network plan for the merger, should it
13 happen, would include these additional scheduled
14 flights that you give examples of?

15 MR. MITCHELL: Objection to the form.

16 THE WITNESS: The combined network plan
17 that I was provided had every flight operating seven
18 days a week, and nothing was fleeted yet. So it was
19 more indicative of frequency and market, but it was
20 not reflective of a detailed specific day of the week
21 or seasonal schedule.

22 BY MR. DeRITA:

1 it's a general term. I don't know how widespread the
2 usage is.

3 Q. So going back to the first step that you
4 took that we were discussing, whether or not
5 schedules for July 2023 can be run with fewer planes
6 on a standalone basis, you did not allow flights to
7 be retimed using FAM to evaluate the standalone
8 schedules; is that right?

9 A. The standalone schedules had already been
10 optimized. They were the base, so they were the
11 schedules that the airplanes themselves after working
12 for however many months chose. So because the
13 comparison was what could you do by pooling versus
14 the base, I did not feel it was appropriate to change
15 and update the base, but -- and so in that -- for
16 that reason, I left the base schedules as they were
17 in terms of departure times and -- yeah.

18 Q. So just to be clear, I'm not talking about
19 why you might have not included rescheduling, just
20 simply, when you ran FAM on the standalone schedules,
21 you didn't put anything into the settings to allow
22 for if 20 to 60 minute retiming that you did for the

1 combined fleet, correct?

2 MR. MITCHELL: Objection to the form.

3 THE WITNESS: On the -- counting the
4 planes on the standalone base schedules, I did not
5 allow refueling, that's correct -- or excuse me, I
6 did not allow retiming.

7 BY MR. DeRITA:

8 Q. And that's a different setting for
9 retiming capabilities for the standalone fleet versus
10 the post merger combined fleet?

11 MR. MITCHELL: Objection to the form.

12 THE WITNESS: The standalone fleet was the
13 base -- I mean, it was the schedule, it was the
14 actual schedule. The most merger was looking at what
15 opportunities would exist by combining and pooling.
16 So, yes, there was no combining and pooling in the
17 base, and that setting was different.

18 BY MR. DeRITA:

19 Q. So understanding what you did in paragraph
20 42 of the report that did not allow for retiming on
21 standalone fleets, did you at some point run the FAM
22 model on the standalone fleets while allowing for

1 the ordinary course of business, which of these
2 constraints would you consider?

3 MR. MITCHELL: Objection to the form.

4 THE WITNESS: It would really depend on
5 the context of the schedule. Is it a future
6 schedule? Is it planning where you're making
7 changes? Is it next month's schedule? So all of
8 these constraints are used under certain conditions
9 and many of them are not used for a number of others.
10 So it's very context dependent.

11 BY MR. DeRITA:

12 Q. In your experience using FAM, have you
13 used any of the constraints that appear in this
14 screenshot as 0 when planning a future schedule?

15 MR. MITCHELL: Objection to the form.

16 THE WITNESS: Yes, I have.

17 BY MR. DeRITA:

18 Q. Which ones?

19 A. Well, the same fleet, row 902, I've used,
20 same fleet aggregate, I have used. Future schedule
21 for plane on the ground, yes, I've used. Maintenance
22 constraints, that would generally depend on the

1 timeframe, how far in advance. So it's used
2 sometimes.

3 Pilot hour constraints, similarly for a
4 shorter term schedule, where the pilot hours are
5 fixed, you know, I've used that. And the longer term
6 planning would normally not use it. The fleet size
7 is just a function of how many fleets are active.
8 Would rarely use noise constraints anymore.

9 Midday breakouts are automatically
10 generated. In this case, it's a 0 because all of the
11 airplanes in these runs are the same -- the same crew
12 flies them, so there's no opportunity to have a 737
13 arrive. And then the next day, you have a 320 leave.

14 So the frequency constraints are used in
15 future planning, if you want to add or delete
16 service. Some of these others are internally
17 generated by the model. Refleet, you know, that can
18 be used essentially to -- when you're refleet, to
19 control the number of changes.

20 So all of them have been used at some
21 point, and many of them are not used for many runs.
22 Again, it's very context dependent.

1 airlines by JetBlue in this transaction?

2 A. Yes, I'm aware.

3 Q. When evaluating LaGuardia, did you factor
4 in the slots that are going to be divested to
5 Frontier in that analysis as to whether or not the
6 slots were in the combined airline's portfolio?

7 A. No, I used the July 2023 schedule in its
8 entirety, with no divestiture for both the flights,
9 as well as slots.

10 Q. And did you evaluate JFK -- sorry, not
11 JFK. Did you also evaluate -- no, forget it. You
12 didn't evaluate Newark. We don't need to go there.

13 To the extent that JetBlue or Spirit are
14 operating banks at any airport across the country,
15 does the FAM model evaluate whether the retiming that
16 could be allowed would move a flight outside of
17 banked hours.

18 A. The FAM model does not. The follow-up
19 process from any FAM solution would be to take the
20 solution, and to evaluate what got better, what got
21 worse from a timing perspective. And then
22 iteratively improved and adjust the schedule. So the

1 FAM itself does not have that as a direct output.

2 Q. Did you do this follow-up process that you
3 described on the FAM output?

4 A. I did not. I don't have a -- did not have
5 a calibrated -- I did not attempt to forecast the
6 profits and the passengers and the load factors of
7 either airline. But I would anticipate, if JetBlue
8 after the merger is scheduling and building a
9 network, that that would certainly be part of their
10 process. It would require demand forecasts, it would
11 require lots of inputs. But I did not undertake that
12 exercise.

13 Q. Does the FAM model consider whether
14 "remain overnight gates" are available to support
15 additional operations from popped aircraft?

16 MR. MITCHELL: Objection to the form.

17 THE WITNESS: The FAM model does not. And
18 I did not attempt to address where or what the
19 eventual use of the popped aircraft would be.

20 BY MR. DeRITA:

21 Q. Does FAM consider whether other terminal
22 assets, such as ticket counters or baggage carousels,

1 are available to support additional operations?

2 A. FAM is not intended to be forecasting what
3 you would do with these extra planes. That would be
4 part of JetBlue's planning process, but it is not --
5 it is not part of the FAM modeling.

6 Q. Does FAM consider whether additional
7 ground crews, such as gate attendants or baggage
8 handlers, would be available to support additional
9 operations?

10 A. Well, I mean, any schedule that an airline
11 proposes, they would take into account what their
12 ticket counter and staffing capabilities were. So as
13 I said, what would happen, and where these planes
14 would go was not part of this analysis. I have no --
15 I did not attempt to model JetBlue's capability at
16 different airports of what they might do with those
17 planes.

18 Q. Does FAM take into account whether or not
19 moving a flight time might make it more or less
20 desirable for passengers?

21 A. The FAM does not have a direct time of day
22 preference adjustment. Which is, again, part of the

1 reason that there was a heavy emphasis to keep the
2 timing as close as possible to the original timing.

3 Q. Does the FAM model differentiate --
4 actually, let me take that back.

5 Does the FAM model take as an input the
6 number of -- or availability of gates at specific
7 airports?

8 MR. MITCHELL: Objection to the form.

9 THE WITNESS: It is -- you have a
10 potential to limit the total number of airplanes on
11 the ground of a certain type at a specific airport.
12 But it's not -- it's not comprehensive in terms of
13 looking at gates.

14 BY MR. DeRITA:

15 Q. One of the utilization adjustments that
16 you describe in your report is the increased use of
17 Spirit's A321s. Can you explain what that is?

18 A. Can you point me where in the report?

19 Q. Page 25.

20 A. Okay. So Spirit's A321s have been limited
21 from some very long flights for operational reasons.
22 And in certain seasons, particularly summer, where

1 MR. MITCHELL: Objection to the form.

2 THE WITNESS: There would be the potential
3 with the reduced seat density and having an airplane
4 that is equivalent to one that JetBlue flies on
5 longer stage length. I think there's likely the
6 potential to fly the A321 on longer flights on those
7 occasions where the airline determines the demand is
8 such that that would be the best use of the plane.

9 BY MR. DeRITA:

10 Q. If an A321 is used to fly a longer stage
11 length, would that tend to increase or decrease the
12 number of seats that it flies per year?

13 MR. MITCHELL: Objection to the form.

14 THE WITNESS: Flying -- if you increase
15 the average stage length, then that, in general,
16 depending on whether you were able to, for example,
17 add flights with additional redeye flying.

18 But if it's -- in general, longer stage
19 lengths would reduce departures and have a reduced
20 effect on seat departures. The airline's overall
21 goal is not necessarily the most seats, period. It's
22 the putting the most seats at the time and the place

1 where the demand exists for those seats.

2 BY MR. DeRITA:

3 Q. So if, as you say, in general, longer
4 stage lengths would reduce departures and have a
5 reduced effect on seat departures, isn't the change
6 that you're suggesting in this section of your report
7 actually going to result in a reduction of the number
8 of seats per year?

9 MR. MITCHELL: Objection to the form.

10 THE WITNESS: I wouldn't say that. And as
11 I mentioned, it can work both ways, because there are
12 flights that -- there are A321s that fly longer haul
13 now, that in the peak March and April seasons could
14 be deployed on shorter routes.

15 So instead of having merely the 30 A321s
16 that Spirit operates, the combined network would have
17 more than 60. So you might have more seats in
18 certain times of year, less seats in other times of
19 year, but the goal would be productive seats where
20 the demand exists.

21 So I don't have a year-round assessment of
22 how the total seats would play out there. To the

1 currently exist.

2 BY MR. DeRITA:

3 Q. Did you do anything to evaluate whether
4 adding additional redeye flights would be profitable
5 for the combined JetBlue and Spirit?

6 A. I did not do a forecast on the
7 profitability of these potential redeyes.

8 Q. Did you do any analysis of customer demand
9 for redeye flights?

10 A. Redeye flights often have high appeal for
11 certain passengers, but I did not -- for these
12 potential new flights, I didn't do a redeye specific
13 forecast, no.

14 Q. Are you aware of any JetBlue or Spirit
15 documents that discuss whether there's any unmet
16 demand for redeye flights?

17 MR. MITCHELL: Objection to the form.

18 THE WITNESS: I'm not aware of any
19 documents of that nature.

20 BY MR. DeRITA:

21 Q. Did you evaluate whether Spirit could
22 increase its redeye flying independently without a

1 aircraft reserved as spares. What's underlying the
2 claim you make that the combined airline could keep
3 fewer spares?

4 A. Generally, as a fleet size gets larger, so
5 for example, the 320s, their opportunities to
6 potentially have fewer -- many airlines might use a
7 metric, for example, one spare for 30 airplanes.

8 So if you have 70 airplanes, you need
9 three spares. If you have 90 airplanes, you still
10 use three spares. So there's potential there. The
11 other factor is oftentimes if you take an airport
12 such as, let's say, Fort Lauderdale, both airlines
13 may have enough presence that they each need a spare.

14 But in a combined entity, one spare might
15 be sufficient. So the reason I didn't quantify is
16 that's very specific to the number of planes, where
17 they're located, but I think it's quite possible that
18 one or fewer spares would be possible.

19 Q. How does Spirit currently determine the
20 number of spares that it maintains?

21 MR. MITCHELL: Objection to the form.

22 THE WITNESS: I don't have all of the

1 input. I can look at how many they've had, but that
2 number changes. I don't know what all factors they
3 take into account in setting their spares.

4 BY MR. DeRITA:

5 Q. Do you know if a piece of software is used
6 to do that?

7 A. I'm not aware if it is or not.

8 Q. Did you evaluate whether Spirit could
9 independently, outside of the merger, reduce the
10 number of spares it keeps in its fleet?

11 A. I did not evaluate independently what they
12 might or might not do with spares, no.

13 Q. Did you evaluate whether JetBlue could
14 reduce its number of spares independently, but for
15 the merger?

16 A. No, I did not.

17 Q. Did you quantify any change in utilization
18 that would result from having less spares?

19 A. I did not quantify a change in
20 utilization. Most of the utilization I did was line
21 utilization or seats per active airplane, not at a
22 fleet basis.

1 BY MR. DeRITA:

2 Q. It does not account for any changes that
3 are planned to Spirit's fleet after 2023, correct?

4 A. This figure uses only the 2023 fleet data,
5 nothing beyond that for either airline.

6 Q. Are you aware that JetBlue's deal modeling
7 includes plans to reduce Spirit's fleet as compared
8 to its pre-merger fleet plans?

9 MR. MITCHELL: Objection to the form.

10 THE WITNESS: I have not reviewed
11 JetBlue's deal modeling. I know, for example, that
12 Spirit recently has deferred some orders. My
13 experience is that airlines frequently evaluate their
14 fleet and adjust, but I don't have -- I don't know
15 what the deal modeling assumed in terms of fleet
16 changes.

17 BY MR. DeRITA:

18 Q. So you're not aware that -- actually,
19 let's just go to Dr. Chipty's reply. If we can go to
20 page 64, paragraph 88. And here, Dr. Chipty points
21 out that, "JetBlue anticipated rationalizing Spirit's
22 pre-merger fleet plans by 2027 as follows: (a) reduce

1 the number of A319 NEO aircraft by 31 planes; (b)
2 reduce the number of A321 NEO aircraft by 12 planes;
3 and, (c) increase the number of A320 NEO aircraft by
4 15."

5 You were not aware of these changes?

6 MR. MITCHELL: Objection to the form.

7 THE WITNESS: Well, I'm aware that that
8 claim was in Dr. Chipty's report. As to what the
9 assumptions were in the deal modeling, I didn't
10 review that, so I can't -- I can't address that. I
11 certainly see that that is the statement here, but
12 beyond that, I don't know.

13 BY MR. DeRITA:

14 Q. So in the footnote to the sentence,
15 Dr. Chipty cites JetBlue spreadsheet, fleet
16 unreasonable and fleet reasonable tabs, May 4th,
17 2022, JBLU-DOJ-03084563. Have you reviewed that
18 document?

19 A. I have not reviewed that.

20 Q. Did you review Dr. Chipty's analysis of
21 the seats that would be lost by the fleet
22 rationalization she points out in paragraph 88 of her

1 reply report?

2 MR. MITCHELL: Objection to the form.

3 THE WITNESS: I saw her quantification. I
4 didn't review as to its accuracy or appropriateness.
5 So I saw the exhibit, but beyond that, I don't have a
6 comment on that.

7 BY MR. DeRITA:

8 Q. You have no response to the fleet
9 rationalization claim that she makes in this
10 paragraph, that's right?

11 MR. MITCHELL: Objection to the form.

12 THE WITNESS: I do not have insight in
13 JetBlue's future fleet plans or Spirit's. Other than
14 I noted that Spirit's has recently changed, but, no,
15 I don't -- I don't know what the assumptions are in
16 the deal modeling, and I did not review that.

17 BY MR. DeRITA:

18 Q. You would agree that removing 31 A319 NEO
19 aircraft from Spirit's fleet would result in the loss
20 of some number of seats, correct?

21 MR. MITCHELL: Objection to the form.

22 THE WITNESS: I think it's in the context

1 additions and Saturday reductions, and subtracting
2 that number from the seasonal increase number that
3 you had already calculated?

4 A. Right. That eliminated any double
5 counting, because the seat -- the day of week
6 adjustments were implemented on a seasonal basis,
7 but, yes, that would be the net effect.

8 Q. Okay. And I want to circle back to the
9 seasonal and day of week adjustments that we talked
10 about earlier. You had mentioned, as an example,
11 Cleveland to Atlanta as a route that might face more
12 demand after -- or might face more demand in a place
13 where seasonal flying increases can be done. There
14 are presumably some routes where there are not demand
15 for additional seasonal or day of the week flying,
16 correct?

17 MR. MITCHELL: Objection to the form.

18 THE WITNESS: Yes, the demand really
19 varies from route to route. So I would not assume
20 across the board that there would be demand
21 sufficient to add capacity in every route.

22 BY MR. DeRITA:

1 would have to do that evaluation on a seasonal and
2 route by route basis.

3 BY MR. DeRITA:

4 Q. You do not know whether there are more
5 routes that JetBlue would be able to increase
6 seasonal and day of week flying versus ones like
7 Orlando to Cleveland that we discussed that may not
8 be able to?

9 MR. MITCHELL: Objection to the form.

10 THE WITNESS: I have not forecasted the
11 changes in profit, revenue, and cost from adding
12 frequencies on a day of week and market basis. So I
13 don't have an exact number of how many you would add
14 or not add.

15 BY MR. DeRITA:

16 Q. Okay. Let's turn to paragraph 79 of your
17 report.

18 A. Okay.

19 Q. So here in this paragraph, you state, the
20 combined airline will not decrease output and will
21 likely make more seats available for departure.

22 How did you reach that conclusion?

1 with their own fleet, and what they and Spirit both
2 do today.

3 BY MR. DeRITA:

4 Q. Can you explain to me how to rationalize
5 the finding in figure 18 of a negative 3.8 million
6 seat departures with your conclusion that output will
7 not be decreased?

8 MR. MITCHELL: Just for the record, you
9 misstated the number.

10 MR. DeRITA: Yeah, sorry. .38 million.

11 THE WITNESS: Yes. In paragraph 79, I
12 mentioned the categories of utilization increases.
13 And again, fleet optimization, I believe, is the main
14 driver, where within that category that the combined
15 airline would do substantially more changes. For
16 example, I did not allow any 320s to become 321 or
17 vice versa. So there was a pool of some limited -- I
18 think 69 321s. So there was no ability to change
19 capacity cost. There was another pool of separate
20 320s.

21 And in addition, there would be -- in the
22 combined network, there would be 220 300s, depending

1 on the timing of fleet changes, 319s. So there would
2 be a much larger pool. So there could be an ability
3 to potentially pop more airplanes, but also to
4 increase utilization with bigger blocks of time, for
5 example, during the day, where we talked earlier
6 about the plane on the ground.

7 So JetBlue could look at that, can they
8 take these multiple fleets, this bigger pool, and can
9 they create a block from 9:00 a.m. to 3:00 p.m. in
10 Boston.

11 So there are substantial changes that the
12 larger pool and the upgauging and downgauging allow
13 within fleet optimization, but without that data to
14 support and justify the specific changes, I did not
15 directly include that in this waterfall.

16 BY MR. DeRITA:

17 Q. So is what you're saying, the numbers that
18 you include in fleet optimization could be larger?

19 A. In an actual combined merged airline, when
20 they are able to upgauge, downgauge, and make the
21 seasonal adjustments and include additional fleet
22 types, I would expect the benefit to be significantly

1 BY MR. DeRITA:

2 Q. So is it your expectation that the fleet
3 optimization could be increased by .38 million seats?

4 A. I would expect after combining -- the
5 airlines combining the fleets and allowing
6 appropriate regauges, that the fleet optimization
7 total would increase by significantly more than .38
8 million.

9 Q. But how can you say that it's going to be
10 more or could be more than .38 million if you have
11 not quantified that?

12 MR. MITCHELL: Objection to the form.

13 THE WITNESS: I mean, I've done these
14 types of regauging analysis. It's also the larger
15 the pool of aircraft are, the more opportunities you
16 have to either pop airplanes or create that plane on
17 the ground. And there's certainly almost always
18 capability to improve seat production or profit
19 performance through upgauges and downgauges.

20 So I've never seen it where there wasn't,
21 so I'm very confident that it would happen. But
22 without that specific forecast and cost data I did

1 not quantify that piece of the fleet optimization.

2 BY MR. DeRITA:

3 Q. When you said I've never seen it where
4 there wasn't, did you mean improving seat production
5 or profit performance through upgrades and
6 downgauges? What's the "it"?

7 A. Typically, with respect to upgauges and
8 downgauges, once a forecast is developed, I have
9 never seen a schedule where there was not the
10 potential to improve performance generally by adding
11 seats where the demand is. So it's -- it's what I
12 would expect to happen and what has happened in each
13 case that I've worked over the past 30 years.

14 Q. In those cases that you're referring to as
15 having worked on in the past 30 years, are any of
16 those involving the combination of two fleets -- of
17 two separate airlines?

18 A. Other than the cases that I mentioned,
19 which were similar here, with no gauge changes, I
20 have not run an analysis of combining two separate
21 schedules. I would expect that that would certainly
22 increase the likelihood of improvement, because you

1 their network, their airplanes. So I did not attempt
2 to second guess their deployment in their July
3 schedule.

4 BY MR. DeRITA:

5 Q. But if you just said that in your prior
6 engagements, and probably almost all cases, there
7 would be opportunity for fleet optimization, Spirit's
8 just the one case that there isn't an opportunity for
9 fleet optimization?

10 MR. MITCHELL: Objection to the form,
11 mischaracterizes.

12 THE WITNESS: Yeah, I wouldn't phrase it
13 that way. That's -- in the cases that we -- that
14 I've worked on or that our company has worked on,
15 there are many airlines -- or there are cases where
16 they haven't used that.

17 So when we are asked to come in, work with
18 them to build a forecast or utilize their forecast,
19 we would find that. So I am not -- not commenting on
20 what Spirit has done. I would anticipate if we were
21 to do a study and work with them, that we would find
22 opportunity. But we would have to go through that

1 exercise to validate that.

2 BY MR. DeRITA:

3 Q. You mentioned you were retained in July in
4 relation to this matter. Was your assignment from
5 the start to use FAM to optimize the fleet?

6 MR. MITCHELL: Objection to the form. You
7 can answer.

8 THE WITNESS: It might have been late
9 June. No, the assignment was to look at the
10 potential changes as the initial assignment. You
11 know, FAM was my choice of a way to quantify some of
12 the values, but I was not asked to use FAM. I chose
13 to use it.

14 BY MR. DeRITA:

15 Q. Do you remember approximately when you
16 chose to use FAM as the model for evaluating the
17 potential changes?

18 MR. MITCHELL: Objection to the form.

19 THE WITNESS: It would have been very
20 early in the process. So after -- within the first
21 week, I would say.

22 MR. DeRITA: Okay. Let's go off the